

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF WASHINGTON AT SEATTLE
3

4 DAVID GOLDSTINE,)
5) C18-1164-MJP
6 Plaintiff,) SEATTLE, WASHINGTON
7 v.) December 10, 2019
8 FEDEX FREIGHT INC.,) 8:30 a.m.
9 Defendant.)

10 VERBATIM REPORT OF PROCEEDINGS
11 BEFORE THE HONORABLE MARSHA J. PECHMAN
12 UNITED STATES DISTRICT JUDGE

13 APPEARANCES:

14 For the Plaintiff: Ada K. Wong
15 Jordan T. Wada
16 AKW LAW P.C.
6100 219th Street SW, Suite 480
Seattle, WA 98043

17 Beth A. Bloom
18 Bloom Law
3827-C South Edmunds Street
19 Seattle, WA 98118

20 For the Defendant: Donald H. Snook
21 Sandra C. Isom
22 FedEx Freight
1717 Aaron Brenner, Suite 600
Memphis, TN 38120

23 Medora A. Marisseau
24 Karr Tuttle Campbell
701 Fifth Avenue, Suite 3300
25 Seattle, WA 98104

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1 THE COURT: Okay, counsel, first of all, I read the
2 deposition that you asked me to read. And, quite honestly, I
3 don't know why, because there were only two objections and
4 they weren't sustained -- how do I want to put it? The
5 defense didn't continue them. In other words, they didn't
6 say that they wished to preserve their objections. So
7 everything you have there is appropriate to read. Okay?

8 All right. Let's get back to this issue of the benefits
9 and when the information was forthcoming and when it was
10 requested.

11 Ms. Wong?

12 MS. WONG: Yes, Your Honor, so we asked for
13 plaintiff's entire employment file. And we were told that we
14 received everything. We didn't. We came to realize there
15 were additional information benefits.

16 So then we --

17 THE COURT: So I take it the benefits are not
18 contained in an employment file?

19 MS. WONG: Correct.

20 THE COURT: So it's not unusual for corporations to,
21 unless you say "Mother may I" asking for employment file
22 versus benefits file versus whatever HR file. They label
23 them different things. Did you proceed to ask them in
24 different ways for what you wanted?

25 MS. WONG: Yes. We asked for everything. It's a

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1 block paragraph. We asked for employment file, personnel
2 file, records, rates of pay -- and the list goes on -- his
3 time sheets and everything. We got most of it. We didn't
4 get anything from benefits.

5 And so then we, in our notice of deposition for 30(b)(6)
6 testimony, we specifically spelled out a line for
7 compensation, plaintiff's rates of pay. Defendant objected
8 to designating somebody to talk about this topic. I put this
9 on the record during the deposition itself. And then we met
10 and conferred again after that. And I can hand these up to
11 Your Honor. With the first document being April 24th where
12 we said that FedEx has not designated somebody to talk about
13 that specific topic. And then he was -- Mr. Snook was going
14 to get somebody to write up a compensation explanation for
15 everything that's on these paychecks.

16 And I can also hand up the paychecks that we did look at
17 in the deposition and were produced. And they talk
18 specifically about these benefits: Cancer; 401-K; FSA; life
19 insurance; dental; medical; life; vision. So we have all of
20 these.

21 I also have the portion of the deposition transcript; if
22 Your Honor would like to take a look; where Mr. Snook
23 specifically said he was not going to designate somebody on
24 that very specific topic. So when our expert report was due
25 in May, we wanted to meet the deadline, so we had Dr. Tapia

1 provide her expert report. And she specifically stated --
2 and I could hand this up as well -- that while the earnings
3 records show that Mr. Goldstine had health benefits with his
4 work at FedEx, additional information is needed, if any, as
5 to these benefits and the cost for Mr. Goldstine. And that
6 she specifically reserved the right to revise this
7 preliminary analysis accordingly. So we have provided them
8 notice. We provided them with Dr. Tapia's report.

9 Then we followed up again in June after we provided the
10 report, with the notice that she was waiting on this benefits
11 information, stating that we needed this benefits
12 information, 401-K, medical, dental, which appears as line
13 item deductions in the earnings report that was provided by
14 FedEx.

15 We have since followed up. We've continued to follow up.
16 We recently sent Mr. Snook e-mails. And we haven't gotten
17 anything. So we believe that they were provided notice.
18 They knew that we were waiting on them to provide us with the
19 benefits information so that Dr. Tapia could supplement her
20 report.

21 THE COURT: What's the first date that you asked for
22 this benefits information?

23 MS. WONG: April. Well, let me take that back. When
24 we provided them with our notice of 30(b)(6) deposition,
25 which was earlier this year, I want to say it's January. And

1 then we asked for the personnel file, I believe usually in
2 our first set of discovery back in September 2018.

3 THE COURT: And were these requests part of your
4 request in your set of discovery that I issued the 7-day
5 order on?

6 MS. WONG: I believe so, Your Honor.

7 THE COURT: Can you tell me where in the request it
8 will be specifically covered?

9 MS. WONG: Yes. We asked for the personnel file to
10 find the specific number, which might take me a bit --

11 THE COURT: So you asked for the personnel file?

12 MS. WONG: Yes. I don't think there's a dispute that
13 we asked for the personnel file during this set of discovery.
14 We even had extensive conversations about this in written
15 discovery amongst various 30(b)(6) designees.

16 THE COURT: So we have a complete record. You
17 supplemented your expert report on what date?

18 MS. WONG: We supplemented our expert report in the
19 last couple weeks, I want to say it's November.

20 THE COURT: So when you --

21 MS. WONG: That was based on a couple pieces of
22 information that Mr. Goldstine found, as we told him we were
23 really not going to get these benefits. We even had
24 Mr. Goldstine himself call FedEx HR, write to FedEx HR, and
25 no response.

1 THE COURT: Okay. And did the defense ever take
2 Dr. Tapia's deposition?

3 MS. WONG: They didn't. They never said that they
4 wanted to, even after her initial report providing notice
5 about the supplementation of benefits.

6 THE COURT: Okay. Now, let's get back to the Tapia
7 report and why it is calculated only to age 60. How did that
8 happen?

9 MS. WONG: She calculated that rate based on average
10 retirement age.

11 THE COURT: For truckers or for the population as a
12 whole?

13 MS. WONG: Population in general.

14 THE COURT: Age 60?

15 MS. WONG: I think it was 62.5.

16 THE COURT: Is it 60 or 62.5?

17 MS. BLOOM: I'm sorry, Your Honor.

18 MS. WONG: 63.8. It's the average work-life
19 expectancy.

20 THE COURT: All right. And what's the difference in
21 the swing between the two reports?

22 MS. WONG: Between the two reports she has some
23 additional benefits information. I believe she used the
24 department's average statistics, because she didn't have
25 specific benefits for Mr. Goldstine, as well as the age

1 difference.

2 THE COURT: Now, Ms. Wong, if you weren't getting
3 these materials why didn't you come to me and ask for an
4 order to compel? You knew how to do that and I granted you
5 one.

6 MS. WONG: Yeah. So we were told we were going to
7 get it. And we didn't think we weren't going to get it. And
8 I had filed three motions to compel at that time and you
9 provided a deadline for, I believe it was the LCR Rule 37 to
10 engage in. And even after that we thought we were going to
11 get it. We didn't think that the defendant was going to
12 raise an objection, knowing that this was in her report and
13 that's what she was waiting for.

14 THE COURT: And so you believed them?

15 MS. WONG: Yeah.

16 THE COURT: All right. So tell me what the swing is.

17 MS. WONG: So the total amount of the first report
18 would be about \$288,000. And then for the supplemental
19 report it's about \$605,000.

20 THE COURT: So you have a swing of over \$400,000; is
21 that what you're saying?

22 MS. WONG: Correct.

23 THE COURT: All right. Thank you. Mr. Snook?

24 MS. SNOOK: Yes, judge. What I understand what you
25 wanted us to address specifically -- we're talking about the

1 benefits first. What we -- what I promised to do was
2 contained in the meet-and-confer letter from Mr. Wada, which
3 I believe has been produced as part of this dispute. But it
4 says that this is an explanation of our discussion, Jordan
5 and I's discussion.

6 He says that you -- me -- stated you will ask if you can
7 produce a document with this information. So that's what our
8 agreement was on June 5th.

9 That June 5th call, by the way Your Honor, was as a result
10 of your order that we get together and discuss all of the
11 issues that were a part of the second motion to compel, and I
12 think the third motion to compel. So we discussed a whole
13 bunch of stuff on that day. And what I said was that I would
14 ask if I could produce a document with this information.

15 Now, what they were seeking was numbers that FedEx paid
16 for his benefits. I understand that's a relevance argument.
17 That wouldn't be relevant to any calculation of his lost
18 benefits. But the response was -- when I asked about, can we
19 produce this document -- was that Mr. Goldstine has access to
20 this document, all of this information himself. He still can
21 get on line. And we know that because he has gotten on line
22 to produce the documents to his attorneys just recently.

23 THE COURT: And did you write back and say where they
24 could find it on line?

25 MS. SNOOK: I didn't.

1 THE COURT: And what makes you think that that's
2 adequate when we're dealing with interrogatories that are
3 asking for specific things?

4 MS. SNOOK: Well, let's be clear. This was not an
5 interrogatory. The interrogatories or request for
6 production, I've been reviewing them -- Ms. Wong couldn't
7 identify a number for you -- I've been reviewing them, I
8 don't think there's one that says they wanted the benefits.

9 THE COURT: Did you -- did she identify that she
10 wanted all the files?

11 MS. SNOOK: Do you mean just informally?

12 THE COURT: No, in the interrogatories? She just
13 told me that she asked for all of his personnel files.

14 MS. SNOOK: She was provided his personnel files.
15 And I'm not sure that it asked for anything that would
16 include this benefits information.

17 THE COURT: So you knew that they were after the
18 benefits from the meet-and-confer, however?

19 MS. SNOOK: Yes, I knew that they wanted them.

20 THE COURT: Mr. Snook, this isn't your first rodeo,
21 as you've explained to me before.

22 MS. SNOOK: It is not, Your Honor.

23 THE COURT: And have you ever been in an employment
24 case that was adequately litigated where somebody didn't ask
25 for the benefits?

1 MS. SNOOK: Your Honor, what they requested was the
2 information that was contained on his paychecks. And we did,
3 in fact, provide his paychecks. He had them, and we provided
4 additional ones.

5 THE COURT: That's not what I asked you. They asked
6 for the benefits. If he was receiving health insurance. Is
7 there life insurance here? Is there some other benefit?
8 What kind of benefits does FedEx provide?

9 MS. SNOOK: What FedEx provides he is aware of and
10 that is on his paycheck.

11 THE COURT: I don't know what FedEx provides, so you
12 need to tell me. What does FedEx provide?

13 MS. SNOOK: I can tell you what I think I remember,
14 which is short-term disability, long-term disability.
15 There's some company-paid life insurance. There's health
16 insurance. 401-K. Am I leaving anything out? There's
17 pension information, which is all contained on the paycheck.

18 THE COURT: In each category?

19 MS. SNOOK: The pension is not included on the
20 paycheck.

21 THE COURT: There are some things not included on the
22 paycheck. And one might want to see how long one has to wait
23 for short-term disability or long-term disability or what the
24 cost of the premiums are for benefits.

25 MS. SNOOK: None of that would be used to calculate

1 the lost benefits by the expert. She wouldn't be able to use
2 that.

3 THE COURT: How do you know? You didn't depose her.
4 You didn't ask her.

5 MS. SNOOK: Yeah, he can request that information
6 under ERISA. And by the way, Your Honor, none of that is in
7 the employment file. None of that. And we did provide the
8 employee file.

9 THE COURT: That's what I understand, that many times
10 companies keep these in different places. But the point is,
11 one of the things you were looking for is benefits. And you
12 did have a discussion about that and you told them that you
13 would ask. And presumably that implies an obligation to get
14 back to them.

15 MS. SNOOK: And on June 5th we did have a discussion
16 about a whole lot of issues. And we had a whole lot of
17 discovery issues which we were able to discuss and talk about
18 and resolve and we set deadlines for when we would produce
19 documents. And we did all those things. And what I promised
20 to do that day, Your Honor, was ask whether I could produce
21 that information or not.

22 THE COURT: Did you do so?

23 MS. SNOOK: I did, Your Honor.

24 THE COURT: Where is it documented?

25 MS. SNOOK: Well, I did it orally.

1 THE COURT: How are they supposed to know that that's
2 what you did?

3 MS. SNOOK: I should have told them that I asked and
4 the answer was he already has access to it. And we know that
5 he knows that.

6 THE COURT: That's -- you know, if you thought that
7 was an adequate answer, why didn't you ask me if that's the
8 way you can answer the interrogatory? Because I don't
9 consider that an adequate answer when somebody has asked for
10 it is, "Go search for it on your own."

11 MS. SNOOK: Hold on, let's be clear. This is not an
12 interrogatory. This is not an issue related to discovery
13 through interrogatories or requests for production. This is
14 our discussion as a result of 30(b)(6) issues. Again, I did
15 not fail to answer an interrogatory on this or request for
16 production.

17 THE COURT: Now, why is it that you refused to
18 produce a 30(b)(6) witness who could talk to these issues?

19 MS. SNOOK: Well, there was a whole list of things
20 that they wanted one person to talk about. Rates of pay,
21 which we said, well, that's on the paychecks which you've
22 got. They wanted other issues. And they wanted to know how
23 much FedEx had paid. And I wasn't able to figure out one
24 person who could answer all those. And the issue was, he had
25 the access to the information. It's publicly available --

1 not publicly -- it's available to employees who have been
2 part of the system. And we know that because he's produced
3 that.

4 THE COURT: Well, obviously somebody gathered that
5 information and put it in a place where the employees can
6 find it. Why couldn't you find a 30(b)(6) expert -- or
7 excuse me -- 30(b)(6) witness to help with locating those
8 materials?

9 MS. SNOOK: Your Honor, what I can tell you is that
10 we had dozens of issues that we had to resolve and try to
11 work out. And we were focused on resolving them. And then
12 when some of these tangential ones came up, we tried to
13 resolve as many as we could. And then I never heard anything
14 else for months about these benefits. For months.

15 THE COURT: And you never came to me and said, "We
16 have other issues that need to be resolved."

17 MS. SNOOK: I didn't, no. And Ms. Wong did not file
18 a follow-up saying, "Hey, we want this, too." I agree with
19 Your Honor that if they continued after June 6th or June 5th
20 to feel -- or July 1st that it should have been produced and
21 that I failed to: One, they should have told you, "Hey,
22 Mr. Snook said he would and he never told us what the answer
23 was. We want these documents and we want you to order him to
24 produce the documents."

25 THE COURT: Well, Mr. Snook, it appears to me that

1 you didn't carry through on what you said you were going to
2 do, by communicating back. And you didn't carry through -- I
3 don't consider it: Go look for it wherever, a sufficient
4 answer, when you're in litigation in response to requests,
5 whether it comes in an interrogatory or whether it comes as a
6 30(b)(6) discussion. So I find that you've woefully
7 inadequately supplied them with information. Now, how do you
8 propose we fix that?

9 MS. SNOOK: Well, I suppose we need to have a
10 discussion about whether what FedEx paid for the benefits,
11 which is what they're telling you they wanted, whether that
12 is even what the standard is. And we don't believe it is.

13 THE COURT: Well, I'm assuming that they wanted to
14 know what all the benefits were, not what FedEx paid for
15 them, but what the value of it is to the employee.

16 MS. SNOOK: That's not what they asked for, Your
17 Honor. This says, "We need to determine the amounts FedEx
18 paid for plaintiff's benefits." And it says, "Which appear
19 as line item deductions on his FedEx earnings statements."
20 So I don't want to disagree with you too much, but it does
21 say what they wanted, which is what FedEx paid. And that is
22 not what can be used by the expert to calculate.

23 THE COURT: Says who?

24 MS. SNOOK: Says the case that we cited in our trial
25 brief -- supplemental.

1 THE COURT: How do you know what it is that they were
2 going to use if they got the materials? In other words, if
3 they got an explanation of the benefits, how do you know that
4 they wouldn't have followed up with additional questions?

5 MS. SNOOK: They may have, but what they asked for is
6 what FedEx paid.

7 THE COURT: Had they got that information, that's the
8 whole reason you do 30(b)(6) and you do interrogatories is so
9 that you can see what's there and then follow up. Is that
10 fair?

11 MS. SNOOK: That would be fair. In this case we were
12 right at the close of discovery. And I agree with you that
13 had they said to you, Judge, Mr. Snook promised this, he
14 didn't get it, likely you would have given them more time and
15 we would have gone through that process and we would have
16 been ordered to produce it or not ordered to produce it,
17 however you would have decided, and it would have been
18 resolved.

19 But they didn't do anything about it. They let it go.
20 They didn't ask about it. It went for a long time without
21 them saying, "Hey, why didn't you give us this stuff?"

22 THE COURT: You're obligated to give it whether or
23 not they followed through on it. And I haven't heard an
24 explanation about why that is. You were ordered to meet and
25 confer.

1 MS. SNOOK: Yes, and we did.

2 THE COURT: And I believe I probably said if you have
3 other unresolved issues you bring them back to me.

4 MS. SNOOK: You did.

5 THE COURT: And you used a -- you're supposed to use
6 a local Rule 37 joint presentation.

7 MS. SNOOK: I agree. And they did not do that.

8 THE COURT: And you didn't either.

9 MS. SNOOK: I didn't have anything to compel. I
10 didn't have anything I wanted to say.

11 THE COURT: You had a disagreement, Mr. Snook, that
12 could not be resolved.

13 MS. SNOOK: I suppose that's true, although I didn't
14 have any reason to file a motion to ask you to order
15 anything.

16 THE COURT: Now, how are we going to fix this?

17 MS. SNOOK: I suppose, Your Honor, that we should
18 present the argument about why it's irrelevant and doesn't
19 matter anyway.

20 THE COURT: That's going to be a tough row to hoe,
21 because I actually think that benefits in employment
22 discrimination cases are important things. And just about
23 every lawyer worth their salt is going to want to know that.
24 And the economists are going to want to calculate that,
25 because that is one of the things that is part of the

1 damages. And you know that by reading the WPICs or the ADA.

2 MS. SNOOK: I do.

3 THE COURT: So you knew it was a relevant topic to
4 begin with.

5 MS. SNOOK: I do. And if I was them, I would have
6 very soon after this said, "Hey, what's the answer? Why
7 can't you produce this?" They've just told you there's a
8 \$400,000 swing. So why not a couple weeks after this say,
9 "Hey, Don, why haven't you given this to us?" They didn't
10 say anything in July. They didn't say anything in August.

11 THE COURT: How many times do you think they have to
12 ask? Is there anything in the rules that says you have to
13 keep asking two, three, four times when you don't get
14 something?

15 MS. SNOOK: I do think that if you have a belief that
16 someone has failed to do something in discovery, that you
17 have a limited amount of time, then, to file a motion to
18 compel. I do think that's accurate.

19 I can tell you we had a whole bunch of topics. We
20 resolved a big chunk of them. And this one was the one that
21 we -- I got the answer -- I admit I did not follow up and
22 tell them what the answer was, that they could seek it
23 themselves. And then they never brought it up again.

24 THE COURT: Mr. Snook, the "whole lot of topics"
25 doesn't sell very well. This is a relatively simple case in

1 the sense that we know there are known causes of action. I
2 mean, people try cases all the time where there are hundreds,
3 thousands, millions of documents, and they manage to sort it
4 through.

5 So I come back to you. Short of fining you \$400,000 to
6 make up the swing, how do I make it right?

7 MS. SNOOK: Well, hold on just a moment, Your Honor.

8 We'll do what you order us to do, Your Honor. I suspect
9 the road you're going down is to allow the expert to consider
10 those benefits -- that benefit information. And I believe
11 you will not order that we can't argue that what they're
12 trying to calculate is the wrong standard.

13 THE COURT: Well, the problem is is you didn't give
14 them the things that they might use to follow up. So they're
15 left trying to cobble together what they could find. And the
16 expert may very well have come up to even a smaller
17 calculation if they had actually gotten the documents that
18 were relevant.

19 So I don't know -- normally I would exclude it because
20 it's late. But given the behavior and the pattern of
21 behavior, it's problematic.

22 MS. SNOOK: Your Honor, I'm concerned about the use
23 of the court's -- or the court's use of "the pattern of
24 behavior." There has been a pattern of discovery disputes, I
25 agree with that, filed by the plaintiff. I don't agree that

1 there has been a pattern of negative behavior on my part,
2 although I admit that I did not call them back and say,
3 "We're not giving you the documents because Mr. Goldstine has
4 access to them." I should have done that.

5 And to my defense, had they not liked that answer, they
6 would have been able to do something about it.

7 Mr. Goldstine did get the benefits information and they
8 are listed exhibits on their exhibit list. So I suppose the
9 answer --

10 THE COURT: When?

11 MS. SNOOK: When?

12 THE COURT: Um-hum. When did they get them?

13 MS. SNOOK: I don't know. I don't think I can ask
14 that. But they are listed as exhibits.

15 THE COURT: You didn't give them to them? You're
16 saying that they scrounged them up?

17 MS. SNOOK: Yes. They got them. They had access to
18 them. And they've got them. And they're part of the record.
19 We objected to them. But I suppose one way to resolve this
20 is for you to say that our objection to their late disclosure
21 of them is denied and they should be allowed to use them.

22 THE COURT: Okay. Let's go back to the order that I
23 gave you to deliver things in seven days.

24 MS. SNOOK: Okay. I do want to be clear on this.
25 That order has nothing to do with what we're talking about

1 now.

2 THE COURT: Well, you just challenged me on whether
3 there's a pattern here. So I'm going back to trying to find
4 out if any of the documents that were later turned over were
5 responsive to the order and were they late?

6 MS. SNOOK: We took seriously obviously Your Honor's
7 order that we produce the documents within seven days. And
8 we did. We produced the full responses. Your order says we
9 were to provide full and complete further responses without
10 objections, and all responsive documents to plaintiff's first
11 set of interrogatories and requests for production within
12 seven days of this order. We did that.

13 We scrambled to get it done. We had multiple people
14 working on it and got it done and provided the responses to
15 the plaintiff by e-mail on -- within seven days of your
16 order. So we provided everything to them that we had.

17 THE COURT: And nothing you provided later was
18 responsive to the first?

19 MS. SNOOK: The only possible one -- I'm not sure
20 that I would agree -- but the only possible one was a very
21 broad interrogatory that says -- let me find it, Your Honor,
22 because I want to get the language exactly. Here we go.

23 "If defendant FedEx Freight had any communications in any
24 form with any person regarding the matters alleged in
25 plaintiff David Goldstine's complaint, state" -- and then it

1 provides some specifics. So that says, did anybody have any
2 conversation in any form regarding the matters alleged in
3 David Goldstine's complaint. So that, I suppose, could be
4 the one where this document that was produced later would be
5 responsive.

6 And what we're talking about -- I guess we should talk
7 about that -- what we're talking about is the e-mail from
8 Craig Flick, who's one of our investigators, one of our
9 witnesses, where he talked -- he was recording his
10 conversation with David Hoffman, who is the clinic director
11 at U.S. Healthworks.

12 And in that conversation that Mr. Craig Flick is
13 reporting, he is talking about his conversation with
14 Mr. Hoffman. And Mr. Hoffman denies that there had been any
15 violent outbursts or any problems by Mr. Goldstine at the
16 clinic. We had that report previously and produced those
17 documents. And as part of plaintiff's motion for sanctions
18 they said: Well, this contradicts what your witness said
19 earlier.

20 And, number one, I would be thrilled if I was a party who
21 had two documents that I could impeach a witness with. But
22 that document was produced in June. I'm not totally
23 convinced that that would be responsive to this
24 interrogatory. But I will tell you and promise you as an
25 officer of the court, we did not have that document in March.

1 We didn't have that document in April or May.

2 What happened was, we had took the deposition of Christy
3 Tayman. Ms. Wong took her deposition. And Ms. Tayman
4 brought documents with her that I had never seen. I was
5 concerned about that. She was obviously concerned about
6 that. We provided them. They copied them. And we realized
7 there's documents out here that we don't have. So we did --

8 THE COURT: What do you mean "We don't have"? Isn't
9 Ms. Tayman your employee?

10 MS. SNOOK: I just meant there's documents that I
11 didn't have. So, we contacted -- Jordan Wada and I had had a
12 discussion about, we need to do a keyword search of all of
13 these e-mail accounts and figure out if there are documents
14 that are responsive that we haven't gotten yet. And --
15 because we did perform a search from all these people trying
16 to find all these documents early on, and we've produced
17 them. But when she had documents that we had never seen
18 before, we realized there is some sort of hole, that we're
19 not getting these documents.

20 So we performed a keyword search of Goldstine. And we
21 were able to find additional documents from Mr. Flick which
22 were contained in his safety file. That may be the reason
23 why they weren't provided before was because he was just
24 looking in his regular correspondence file. But as soon as
25 we got them, we provided them.

1 THE COURT: So you keep talking about, "As soon as we
2 got them." You always had them.

3 MS. SNOOK: I didn't.

4 THE COURT: I'm not talking about you, but it's your
5 corporation that has the obligation to produce them, not you
6 personally, Mr. Snook. So if the corporation had these
7 things and did not produce them, they had them and didn't
8 produce them.

9 MS. SNOOK: Your Honor, I would bet any corporation,
10 even much smaller than FedEx, has trillions and trillions of
11 documents. And if the lawyer who is producing the documents
12 is not even aware that they exist and the person who has been
13 asked to search for the documents isn't aware that they
14 exist, then we can't figure out how to get them.

15 This came up as part of our meet-and-confer. They said,
16 "We think you've got more documents." And I said, "Okay,
17 let's do a keyword search." They proposed that a third party
18 forensic somebody come in and download the e-mails of all of
19 these employees. And I said, well, we have a new program, a
20 company that we're using where we can search these and get
21 better results.

22 For example, if I just search "Goldstine" on my Outlook, I
23 will get a bunch of documents, but I won't get every
24 document. I didn't know that. So this company came in and
25 said, we can do a keyword search and we will be able to pull

1 all the documents that perhaps these employees who are
2 searching their e-mails weren't able to produce. And that's
3 what happened. Craig Flick came up with these additional
4 documents and we provided them.

5 If it was designed in order to keep this from them because
6 it was contradictory, because we wanted to hide the ball, why
7 would I give them to them in June?

8 THE COURT: Because you have to.

9 MS. SNOOK: I agree we have to. And I did.

10 THE COURT: Here's what I'm finding really hard to
11 accept is you're supposed to be a sophisticated company,
12 you're big, you've got lots of people all over the country,
13 and you're telling me you didn't run a word search for
14 Goldstine, the name of the plaintiff?

15 MS. SNOOK: We did. We did.

16 THE COURT: But you didn't do it until June?

17 MR. SNOOK: No. We did it early on. We send out
18 litigation holds and e-mails are protected. We go through
19 this whole process, just like everybody does. But what I'm
20 saying is when you get to an individual employee and you say,
21 do a search, if the person does it just in their Outlook, you
22 will get a huge number of results. But sometimes you won't
23 get everything, unless you dig in more than what just a
24 regular person is capable, which is why we had a company come
25 in and do a keyword search and we were able to locate more

1 documents and we produced them.

2 THE COURT: All right. Ms. Wong?

3 MS. WONG: I'll try to make this brief, Your Honor.
4 What I have on the screen is our very first request for
5 production, our Request For Production No. 1 that we
6 propounded in September of last year. And it clearly asks
7 for his entire personnel files from human resources or the
8 personnel department referring to Mr. Goldstine in the last
9 five years.

10 The defense in the coverage information that we were
11 seeking should have been responsive to this very first set of
12 requests for production for documents, which is also the
13 subject of this court's order.

14 And I also wanted to address -- Mr. Snook believes that
15 Mr. Goldstine found these documents online. Mr. Goldstine
16 did not find these documents online. He found bits and
17 pieces of coverage. That doesn't -- that isn't even -- that
18 doesn't even fully cover the years that he worked at FedEx.
19 Once we got these, I think like two Sundays ago, we produced
20 them to Mr. Snook. And we don't even know if this is the
21 full set.

22 Mr. Goldstine tried looking online. He tried logging in.
23 He's no longer an employee, so he didn't have access to it.
24 And we can't find it in the public world online anywhere.

25 So not only that, we did follow up multiple times with

1 Mr. Snook asking for these documents. He never told us and
2 it wasn't until right now even before -- it wasn't until
3 right now he actually said he had no intentions of giving it
4 to us, because I had asked him this as we were trying to
5 continue to supplement her report.

6 So we would ask that the remedy would be to allow
7 Dr. Tapia to provide testimony based on her latest report.

8 If FedEx is able to give us the coverage and the benefits
9 information today or early tomorrow, I'm more than happy to
10 send it over to our expert and have her revise the report
11 based on the information that FedEx provides.

12 And I also wanted -- because Mr. Snook just did say that
13 they are objecting to our three documents regarding benefits
14 coverage, we would also ask the court to admit these
15 documents into evidence. And the exhibit numbers would be
16 150, 151, and 135.

17 And I also wanted to address, really quickly, the e-mail
18 that Mr. Snook was just referring to. I believe he stated
19 that Craig Flick himself didn't know this existed or it
20 didn't come up when they searched for the term "Goldstine."
21 And you can see I underlined eight places where
22 Mr. Goldstine's name actually appears on this document. And
23 Mr. Flick actually sent an e-mail to Christy Tayman to which
24 Christy Tayman acknowledged receipt of back in May 2017.

25 So it's a little weird that we never received this. And

1 it not only addresses the fact that it wasn't Mr. Goldstine's
2 behavior that caused him to be allegedly banned from U.S.
3 Healthworks, but also the regional medical director,
4 Dr. Hoffman, said that the examiner performed a very thorough
5 exam.

6 They're also objecting to this document. And they have
7 objected to allow Mr. Hoffman to testify. And I think one of
8 the remedies we would also ask for is for this court to
9 reconsider and allow Dr. Hoffman to testify in our case in
10 chief instead of as a potential rebuttal witness.

11 I could also address the motion for sanctions at this
12 time.

13 THE COURT: Ms. Wong, one of the things I want to
14 have you consider carefully is, it's obvious that I'm not
15 pleased with the way discovery has gone in this case, and
16 there are a lot of things that I could have done along the
17 way.

18 I'm not pleased with FedEx's attitude about, they don't
19 have to give it unless you say "Mother may I." And I'm not
20 pleased with them assuming that you're supposed to go dig for
21 it elsewhere. And I'm not pleased with the fact that if
22 somebody says they're going to go do something, they don't
23 get back to you.

24 You have the issue of Mr. Goldstine's cancer diagnosis,
25 which comes up very late and doesn't give the defense an

1 opportunity to explore that. Now, the way I tried to fix
2 that is give you at least that amount of testimony. But, in
3 fact, that could be significant depending upon what the
4 outcome of the liability is here.

5 You have a huge swing between what you supplied with your
6 expert back in May and what you supplied two weeks ago.
7 \$400,000 is a big swing. And you're telling me that your
8 expert didn't even have all the right documents or
9 potentially doesn't have all the right documents to correct
10 that or make a substitute or supplemental report. And if
11 there's going to be a supplemental report, the defense needs
12 to have an opportunity to have an expert look at it. They
13 decided that they weren't interested in looking at \$200,000,
14 they might be interested at looking at \$600,000, or they
15 should be.

16 So one of the things that I'm contemplating is declaring a
17 mistrial and setting it over for further discovery on those
18 topics, so that we can actually have a trial based on facts
19 and not based on cobbled-together documents. So your
20 response?

21 MS. WONG: We wouldn't want that. We would like to
22 proceed with trial. I guess one of the things that we can do
23 is to --

24 THE COURT: Are you sure? Have you talked to your
25 client about this? You haven't. I think that -- there's a

1 huge swing here.

2 MS. WONG: Your Honor, can we take a five-minute
3 break?

4 THE COURT: You can. And I'll do the same thing with
5 the defense. So why don't you -- I'm going to get off the
6 bench for a few minutes, then I'm going to come back and
7 we're going to explore this possibility. Okay?

8 MS. WONG: I have a quick question. If we were to
9 have a new trial, when would the earliest be?

10 THE COURT: April.

11 MS. WONG: Okay. Thanks.

12 (Recess.)

13 THE COURT: Please be seated.

14 Ms. Wong?

15 MS. WONG: So we conferred with our client, and
16 because of his cancer and his need for surgery, there's too
17 much uncertainty. We do not want a mistrial and have to wait
18 until April at the earliest. So we would like to move
19 forward.

20 A couple things that we think would potentially remedy the
21 situation would be, first, to admit the three exhibits that I
22 have stated earlier.

23 The second would be, we would want descriptive testimony
24 from a 30(b)(6) witness at trial to talk about the nature of
25 the benefits and the coverage that Mr. Goldstine was afforded

1 while he was working at FedEx.

2 The third would be, we would be willing to strike the
3 calculations up to age 72 in the supplemental report. So the
4 swing between the initial report and our supplemental report,
5 if we were to do that, would be just \$30,580. And we would
6 also ask, in light of waiving the swing of about \$400,000, as
7 well as FedEx's pattern of misconduct, sanctions in the
8 amount of \$100,000.

9 THE COURT: I need more explanation about why waiting
10 until April is not appropriate.

11 MS. WONG: Mr. Goldstine is hoping to get surgery as
12 soon as he can. And it may potentially take him months of
13 recovery time. So he would rather move forward with this
14 trial now, instead of waiting until, at the earliest, April
15 when he might be out for surgery. But he might still be in
16 his months of recovery, or -- I mean, I guess the sad side
17 would be we don't know if he would make it until April.

18 So there is that possibility that he wouldn't want to
19 risk.

20 THE COURT: Okay.

21 MS. ISOM: Your Honor, thank you. We don't
22 necessarily want a mistrial either. And one of the options I
23 was thinking of is we could get them the benefits
24 information. I could work with Mr. Wada, or we could work to
25 get the benefits information. They may not even need a

1 witness from us to discuss that, because it's pretty much
2 laid out. So I could work behind the scenes on that to get
3 them that information so that their expert would have an
4 opportunity to recalculate, if need be, or to test it against
5 whatever numbers she has.

6 Reality is, Mr. Goldstine only worked for us for two
7 years, so this is -- and these are ERISA-governed plans where
8 the documents, you call and say: I want this document, and
9 you read through it and it tells you all you need to know.
10 So we can provide that information.

11 We would oppose any monetary sanctions. This has been a
12 case where I think there's enough blame to go around. In the
13 discovery fight, I was involved a little bit in trying to
14 help manage some of it and figure out what we needed to --
15 you know, what we needed to produce and what were they really
16 asking for. So I think there's enough of it to go around and
17 I think we should call that a wash.

18 But we're willing to proceed -- we wouldn't object if the
19 court would declare a mistrial -- but we're willing to
20 proceed and I'm willing to do what we need to do to make it
21 right on the benefits piece.

22 THE COURT: You really want to go to trial when the
23 swing is \$400,000, potentially?

24 MS. ISOM: Your Honor, I'm not sure --

25 THE COURT: Where you don't have an expert witness on

1 the other side?

2 MS. ISOM: Well, right, there's a concern there. We
3 have a concern there that there's this \$400,000 swing,
4 because \$200,000 is a lot different than the \$600,000 or
5 \$700,000. So we would like that opportunity -- I don't know
6 if we're in a position to ask Your Honor for a mistrial,
7 because I think it's probably what the plaintiff is going to
8 desire. But, yes, there's all kinds of reasons for us to
9 encourage a mistrial. And we would be fine with that.

10 But I also want the court to know that I will do what we
11 need to do to make it right on the benefits discovery if
12 we're not going to have a mistrial.

13 MS. WONG: Your Honor, just as a point of
14 clarification, not just -- we don't want just the numbers
15 that we might potentially get from FedEx, we want an actual
16 descriptive nature of the coverage that Mr. Goldstine had
17 when he was working there. Because it's not just economical
18 harm, it goes to his loss of peace of mind, and emotional
19 distress. We would want a full description of the benefits
20 and the coverage he did actually receive, not just the number
21 amount.

22 And then in terms of the sanctions, I don't think -- I
23 can't tell if we've already gone to that part to address the
24 actual sanctions, so I want to make sure I don't waive that.

25 THE COURT: Okay. Well, go ahead and tell me what

1 you want me to know about the sanctions.

2 MS. WONG: Yes, Your Honor. So I think you asked to
3 know exactly what was produced after your order on
4 March 19th. And one of the documents I've just showed was
5 the e-mail between Craig Flick and Christy Tayman in regards
6 to Dr. Hoffman. The other documents are specifically listed
7 under Exhibit A to my declaration for sanctions. And
8 specifically the first document was produced on June 14th.
9 The order came down March 19th, it was a conduct-of-employees
10 policy.

11 The second document is a driver manual, Lesson 4, which
12 was produced on June 14th. And it's also in our proposed
13 exhibits as No. 76.

14 The third document would be the safety committee
15 inspection forms and safety committee meeting agenda and
16 minutes.

17 The fourth document would be a 2017 pre-shift regarding
18 education topics on fleet maintenance. The other document
19 would be an April 2015 pre-shift regarding raising and
20 lowering trailer doors, which is also part of our exhibit.

21 And I would also like to point out that after this court's
22 order on March 19th, on the seventh day, for all of these
23 specific requests that we've made back in September, FedEx
24 specifically said that they had already produced these in
25 initial disclosures and supplemental disclosures from 2018

1 and early 2019.

2 So they actually didn't produce any of these additional
3 documents and actually affirmatively stated that they had
4 produced everything, that we had everything. And it wasn't
5 until June, shortly before discovery cutoff, that they
6 provided all these documents to us.

7 And we just want to stress that we really do not want a
8 mistrial. We would really like to just proceed with trial
9 now. Thank you.

10 THE COURT: Anything else you'd like to say?

11 MS. ISOM: Your Honor, I believe if we get just a
12 momentary recess we would lean towards desiring a mistrial.
13 Could I have a moment?

14 THE COURT: I thought I gave you a moment.

15 MS. ISOM: We didn't really get a chance to talk. I
16 think hearing everything we're hearing now, to try to
17 accomplish all this within this week, it probably makes sense
18 to have a mistrial, get the proper discovery and come back in
19 April.

20 THE COURT: Yes, Ms. Wong.

21 MS. WONG: Your Honor, we're asking for a compromise.
22 We're okay with them providing a witness to be able to
23 testify about the benefits and the coverage. And we are
24 also, as a compromise, willing to waive the \$400,000 swing.
25 So what we're left with is really a difference of \$30,000.

1 THE COURT: This absolutely doesn't feel right. It
2 doesn't feel right to me that we're -- that you're being
3 asked to waive things on the fly. It doesn't feel right that
4 we would be making up numbers without having it be tested.
5 It doesn't feel right the way FedEx has conducted its
6 response to their discovery obligations. And so I am going
7 to declare a mistrial.

8 Now, there are things that we can do to mitigate the
9 mistrial. If you want to go earlier, I can see about another
10 judge trying your case. And so that might be a possibility.
11 But I want to say I'm truly sorry about the pressure
12 Mr. Goldstine is under with his diagnosis. But I also think
13 that he probably -- we probably need to explore what that is,
14 because the one document that we have is ambiguous.

15 If he is owed benefits, we need a proper calculation.
16 Maybe it will be less. Maybe it will be more. But I'm not
17 happy about the fact that FedEx didn't produce these things,
18 didn't seem to know where their documents were or how to get
19 them, promised to do things and then did not get back to you
20 on it, that you had to file three different motions to
21 compel, one of which I ruled on, and that everything seems to
22 have been late. And it seems to have been delivered with an
23 attitude that: We're only going to give it to you if you say
24 "Mother may I." That is not in keeping with full disclosure.

25 So I can dial it back and allow you to open up the

1 discovery on the issue of Mr. Goldstine's diagnosis. I'm
2 going to order that there be a 30(b)(6) witness produced by
3 FedEx that will address the topics concerning the benefits.
4 That a report, a new report based upon what the 30(b)(6)
5 comes out with, from your expert, is delivered. I'll allow
6 the defendants to take that deposition, if they wish.

7 The defendants will pay the costs to the court for the
8 cost of the jury coming in. And the defendants will pay the
9 cost of bringing on your sanctions motions, your attorneys'
10 fees. So you need to file an affidavit as to what your
11 attorneys' fees are for bringing that forward.

12 So is there any questions about what I've done so far?

13 MS. WONG: No, Your Honor.

14 THE COURT: Is there anything else you want in terms
15 of discovery?

16 MS. WONG: We would want a ruling to allow the
17 testimony of Dr. Hoffman -- or at least not strike him at
18 this point in time -- when we try the case again, because we
19 think he's a critical witness. And we didn't know about him
20 until they late-produced this document.

21 THE COURT: I'll allow you to list him as a witness.
22 And if they want to take his deposition they can do so. I'm
23 assuming they may want to follow up with Mr. Goldstine on his
24 medical issues, if they do.

25 Finally, you're all going to go to a settlement

1 conference. And that might be your first order of business.

2 MS. ISOM: Just one question. Can we reserve the
3 option of potentially designating the expert, depending on
4 what we find out from their economic expert?

5 THE COURT: I'll let you designate an expert. But if
6 you withhold one iota of information on that --

7 MS. ISOM: It will not happen, Your Honor, you have
8 my word.

9 THE COURT: I started out this case thinking that
10 there was something very wrong here. And it has been
11 perpetuated from what I see in the way that the case has been
12 worked up. And it may very well be that I have a company
13 that wants to stonewall their information. And I have a
14 trusting lawyer on the other side who believed you.

15 This has got to stop. People don't have to ask multiple
16 times for things. The rules tell you when you have to
17 respond. They don't have to chase you for the information.
18 And so, Mr. Snook, I know you don't practice in this
19 district, but this is a district that prides itself on
20 cooperation. And that is not what I saw out of your
21 behavior.

22 So if you're going to come back and try this case, I'm
23 going to expect that you're going to be shoving documents
24 across the table with a bow on them.

25 MS. SNOOK: Yes, Your Honor, I promise to.

1 MS. BLOOM: Your Honor, may we be heard on one last
2 point?

3 THE COURT: Yes.

4 MS. BLOOM: We just want to ask to -- on the issue of
5 monetary sanctions, we understand that we have got this --
6 we've been working exhaustively, got this trial ready to go.
7 Mr. Goldstine is ready to go. He's got uncertainty of his
8 medical future. And we have an apartment rented down the
9 block, nonrefundable. We really don't think that under the
10 circumstances -- I mean, what it feels like is they engage in
11 this conduct and we're the ones that are penalized.

12 And given that, we really don't believe that a mere fee
13 award on a sanctions motion is nearly sufficient to remedy
14 the situation. And so we would renew, again, our request for
15 sanctions, as Ms. Wong suggested \$100,000. Perhaps you
16 disagree with the amount. But we don't think the fee
17 petition, which is maybe \$15,000 --

18 THE COURT: What I don't have -- what I have is a
19 motion for sanctions that asks for attorneys' fees.

20 MS. BLOOM: Right.

21 THE COURT: I granted you that.

22 MS. BLOOM: I'm making an additional motion.

23 THE COURT: You can make the additional motion, but
24 I'm not going to hear an additional motion without seeing
25 what the costs are. In other words, you know, tell me what

1 they are. And I'm going to give the other side an
2 opportunity to respond. And I may very well increase the
3 sanctions, if that's appropriate. But what I have in front
4 of me is just the request for sanctions. I don't have any
5 request for sanctions based upon the mistrial.

6 Okay?

7 MS. BLOOM: Understood. Thank you.

8 THE COURT: All right. We'll give you a date in
9 April. And if you wish to -- what I do want you to do is
10 meet and confer to set up a timetable for how you're going to
11 accomplish what it is I've asked you to accomplish. I'll
12 sign off on it. There are no side deals. There are no
13 extensions unless I sign off on it. Okay?

14 Now, you may want to have Mr. Goldstine consult with his
15 doctor and find out when his surgery is going to be. And we
16 will do everything to work around it, including I'll see
17 about getting another judge to step in to try it if that
18 becomes necessary. But you need to -- I don't think you have
19 all the information to know what will happen yet.

20 MS. BLOOM: One point of clarification. In order to
21 avoid being further penalized by the defense taking the
22 position that you've now reopened discovery and it's a
23 free-for-all and we have to respond to all, I want to be
24 clear --

25 THE COURT: It's not a free-for-all.

1 MS. BLOOM: Thank you.

2 THE COURT: It's not a free-for-all. I gave you very
3 limited things to do. So we're not going back and forth with
4 other discovery. You can do exactly what I said you can do,
5 which is 30(b)(6), you get the information that you
6 requested, you have your expert evaluate it. The expert, at
7 their expense, gets deposed. And there was one other thing.

8 MS. BLOOM: There were a number of things. We could
9 provide a proposed order if you'd like.

10 THE COURT: No. I'll write my own.

11 MS. ISOM: Your Honor mentioned a settlement
12 conference.

13 THE COURT: Yes. You have to have a settlement
14 conference at the defendant's expense. You can work on who
15 to pick, mutually. And if you can't decide, I'll pick
16 somebody. Or you can use one of the Rule 37 folks off the
17 list.

18 Okay. Any other questions?

19 MS. ISOM: Just point of clarification. I think you
20 have notes about the discovery. Are we to submit it?
21 Because I think you said we could potentially take
22 Mr. Goldstine's deposition.

23 THE COURT: We'll write an order. I have the
24 realtime. And Mr. Crozier will go back and I'll work on
25 getting you an order right away. But I do want you to meet

1 and confer on what the timetable is for these things to
2 happen. So to get you ready to go, if you want to do an
3 accelerated trial, you need to let me know and I'll try and
4 find another judge, perhaps out of district, to do it. Okay?
5 All right. Do you want to be here when I dismiss the jurors?
6 I don't think it's a good idea.

7 (The following occurred in the presence of the jury.)

8 THE COURT: Good morning, ladies and gentlemen. I
9 have some fairly sad news from the standpoint of being a
10 judge. I've declared a mistrial in this case due to the
11 conduct of the development of the case along the way. It has
12 nothing to do with you, but it does mean that we are going to
13 start over. So there will be a new jury that's selected and
14 we will move forward.

15 I really thank you for your time to come in and I
16 appreciate your service. These things happen sometimes. And
17 I just considered it the best way to be fair to all parties
18 was to have that happen. So I'm very sorry. I'm sorry we
19 kept you waiting. But I had to do my job, which is rule on
20 the law. Your job is to find the facts.

21 So, do any of you have any questions for me?

22 A JUROR: Will we be given something for our
23 employers?

24 THE CLERK: Yes, Your Honor. Just check out in the
25 jury room, they'll have attendance slips.

1 THE COURT: Okay. Anything else? Yes?

2 A JUROR: Your Honor, would you like to explain to us
3 the significance of the art?

4 THE COURT: Yes. Yes. Well, first of all, what did
5 you see when you went down to the first floor?

6 A JUROR: A group of people that looked like us.

7 THE COURT: Yes, exactly. People that looked just
8 like you. In some ways a lot like you. So one of the things
9 I think the artist is trying to do is to celebrate you, the
10 jury, who come to this courthouse. And that mural is
11 actually three levels, three stories tall.

12 So can anybody tell me -- all of those people are real
13 people, by the way. They all live here in the Western
14 District of Washington and they all do the jobs or did the
15 jobs when the painting was made that you see them in. And so
16 I think we're also trying to capture the breadth and
17 diversity of who is here in our district.

18 How do you think the artist made it?

19 A JUROR: It's on wood.

20 THE COURT: It's on wood. Do you think he took a
21 paintbrush?

22 A JUROR: I don't know. No.

23 A JUROR: It looks like photographs.

24 THE COURT: It's almost like photographs, isn't it?
25 You know, very, very small pixels. It's spray paint and

1 stencils. Every color that you see there was a stencil made,
2 then they spray paint, based upon a picture. So it's kind of
3 like our own tagging wall. Cans of spray paint are what made
4 that picture.

5 If you go out to the airport in the original Alaska
6 Airlines concourse, I think it's probably C, you'll see the
7 artist. And there he had a picture of a magician and lady in
8 a box. That's the same artist.

9 A JUROR: What is the artist's name?

10 THE COURT: You know, if you hadn't asked me I could
11 have told you. There's a poster in the jury room that will
12 give you the information.

13 So just to carry through, before you leave you might want
14 to go take a look at the other two floors, because what
15 you're going to see on the next floor up is a bunch of
16 chairs, and the chairs are big, small, one is backwards, you
17 know, one is made of bricks, one is kind of wispy. And I
18 interpret that that the artist is trying to tell us that
19 everybody comes with different attitudes and points of view.
20 Some people are stubborn. Some people are ethereal. Some
21 people are rigid in their point of view. Some people are
22 bigger than life. Some people think of themselves as small.

23 But then you go up to the third floor and what you're
24 going to see is all of those same people that are on the
25 first floor, and now they're all life-size. They're not

1 bigger than life, they're life-size. And they are all
2 sitting in chairs. They're all the same size. It is in
3 black and white. And everyone is faced forward. And what I
4 interpret the artist to be saying to us is, you come in as
5 individuals with your different ideas, but then you come and
6 form a jury where you have a common purpose, and everyone's
7 attitude and everyone's voice is the same size. And that you
8 are all faced forward because you have a job to do. And you
9 become a unit that works together.

10 So if you look at the grain in the wood, downstairs on the
11 first floor with all the colorful people coming in, the wood
12 is up and down, indicating to me that you all come in as
13 individuals. On the second floor the wood is -- sometimes is
14 crossed, sometimes it's down. It's varied. Further
15 emphasizing that people come in with varied points of view.
16 But when you go up to the third floor, the grain is all
17 horizontal, meaning that you are all together on the same
18 level.

19 So that's my interpretation of the art. I'm sorry you
20 didn't get a chance to go to the full class and I gave you
21 the summary version here. But it really was designed, and
22 the judges here worked with the artist to conceptualize the
23 idea of being welcoming to jurors to come in and do their job
24 and be part of their government.

25 So I think the building reflects exactly what it is that

1 you as jurors should do. There's a lot of other great art in
2 the building. You may want to take a look at some of the
3 other art before we leave.

4 Anything else I can help you with?

5 A JUROR: So are we completely dismissed?

6 THE COURT: You're completely dismissed. We call
7 people in, unlike other jurisdictions, you were called in for
8 a specific case. So thank you for your service. I hope you
9 will get a chance to serve again one day. Most people who
10 serve find it a really enjoyable experience, at least from
11 our surveying of them. Okay? Anything else?

12 A JUROR: The green chair that someone sits on in the
13 mural is just like the green chair that I sit on at work. I
14 took a picture of it.

15 THE COURT: All right. Well, see, it is people just
16 like you.

17 A JUROR: It's my pocket art.

18 THE COURT: Okay. There you go. Very good. Thank
19 you.

20 (Adjourned.)

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript from
the record of proceedings in the above-entitled matter.

/s/ Debbie Zurn

DEBBIE ZURN
COURT REPORTER